Appellate Division, First Department Docket No. 2022-00866
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Court of Appeals

of the

State of New York

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(For Continuation of Caption See Inside Cover)

BRIEF FOR *AMICI CURIAE* CONFLICT OF LAWS PROFESSORS PATRICK J. BORCHERS, CHRISTINE SGARLATA CHUNG, KEVIN McELROY, PATRICIA YOUNGBLOOD REYHAN, MICHELLE S. SIMON, STEWART E. STERK, AND AARON D. TWERSKI IN SUPPORT OF PLAINTIFFS-APPELLANTS' MOTION FOR PERMISSION TO APPEAL TO THE COURT OF APPEALS

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Plaintiffs-Appellants,

– against –

SHAMROCK CAPITAL ADVISORS, LLC, SHAMROCK CAPITAL GROWTH FUND III, LP, SHAMROCK FANDUEL CO-INVEST LLC, SHAMROCK FANDUEL CO-INVEST II, LP, KKR & CO., INC., FAN INVESTOR LIMITED, FAN INVESTORS L.P., MICHAEL LASALLE, EDWARD OBERWAGER, ANDREW CLELAND, MATTHEW KING, CARL VOGEL, DAVID NATHANSON, FASTBALL HOLDINGS LLC, FASTBALL PARENT 1 INC., FASTBALL PARENT 2 INC., PANDACO, INC., FANDUEL INC. and FANDUEL GROUP, INC.,

Defendants-Respondents.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 500.1(f) of the Rules of Practice of this Court, the movants herein -- *amici curiae* conflict of laws professors Patrick J. Borchers, Christine Sgarlata Chung, Kevin McElroy, Patricia Youngblood Reyhan, Michelle S. Simon, Stewart E. Sterk, and Aaron D. Twerski -- are joining in the motion in their individual capacities and not for or on behalf of a corporation or other business entity. As confirmed in the Appendix, the listing of movants' school and title is for identification purposes only.

Dated: March 31, 2023

Respectfully Submitted,

JOHN J. HALLORAN, JR., P.C.

By: 

John J. Halloran, Jr.

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Interests of *Amici Curiae*

Amici are law professors who teach and write extensively about conflict of laws. *Amici* have no personal interest in this case. Collectively, they have decades of experience in legal education. By virtue of their extensive professional and academic experience, *amici* have a deep familiarity with the bedrock principles of conflict at laws at stake in this case. For this reason, *amici* are well-equipped to identify law or arguments that might otherwise escape the Court's consideration and present views that otherwise would be of assistance to this Court.

Amici's overarching interest is in the orderly and principled development of choice-of-law rules that serve the public interest. The Decision below may engender confusion among the Bench and Bar who are left to guess if the traditional interest analysis approach in choice-of-law inquiries remains good law, or whether New York has reverted to formalistic choice-of-law approaches. A full list of *amici* can be found in the Appendix, and this proposed brief is offered by *amici* in their individual capacities, not on behalf of their academic institutions.

Preliminary Statement

Amici respectfully submit this proposed brief to urge this Court to grant Plaintiffs-Appellants' pending motion for leave to appeal.[1]

This Court should hear this case to address a conflict of laws issue of extraordinary public importance, specifically whether, under New York's choice-of-law rules, the internal affairs doctrine automatically dictates that the law of the state of a company's incorporation applies to business torts, without considering potentially important New York interests as required by *Greenspun v. Lindley*, 36 N.Y.2d 473 (1975).

This Court has long led the Nation in formulating principled and flexible choice-of-law rules based upon the realities of the interests at stake and the interests of justice. *Greenspun* was such a case. This Court made it clear that, while the jurisdiction of an entity's incorporation may generally be a reliable indicator of which law should be applied to address certain disputes concerning an entity's

[1] Plaintiffs-Appellants, Nigel Eccles, *et al.* (collectively, "Plaintiffs") have moved before this Court, pursuant to CPLR 5602(a)(1)(i) and 22 NYCRR § 500.22, for permission to appeal to this Court from an October 13, 2022 Decision and Order ("the Decision") of the Appellate Division, First Judicial Department, dated October 13, 2022, which: (1) reversed an Order of the Supreme Court, New York County (Masley, J.), entered January 17, 2022 and (2) dismissed Plaintiffs' Complaint. *See Eccles v. Shamrock Capital Advisors, LLC*, 209 A.D.3d 486 (1st Dep't 2022), *rev'g*, 2022 NY Slip Op 30187(U), 2022 N.Y. Misc. LEXIS 262 (Sup. Ct. N.Y. Co. 2022) (Masley, J.).

internal affairs, New York interests must also be considered where, as in this case, the main subject of the alleged wrongdoing had a presence in New York, as evidenced by its principal office in New York and transaction of business in New York. *Greenspun*, 36 N.Y.2d at 478 ("reject[ing] any automatic application of the so-called 'internal affairs' choice-of-law rule" and recognizing that application of New York law may be called for where "significant contacts with New York State" show the subject entity to be "'present' in our State").

The Court below applied the internal affairs doctrine and dismissed Plaintiffs' business tort claims under Scots law. Yet, the Appellate Division did not cite *Greenspun*. The Court below did not explicitly consider New York interests even though *Greenspun* recognized the potential importance of New York interests. The Court below did not acknowledge that the main subject of the alleged tortious scheme – FanDuel, Ltd. – had New York headquarters and transacted substantial business in New York. Indeed, the Court below did not acknowledge that New York has a strong interest in regulating commercial transactions which take place within its boundaries. Instead, the Court below applied the internal affairs doctrine without regard for *Greenspun*, and summarily applied Scots law because FanDuel was incorporated in Scotland.

The Decision below is of profound public importance. The practical effect of the Decision below is that New York courts are powerless to hold parties accountable

for allegedly tortious conduct in New York, and New York's paramount interests in regulating business activities in New York, maintaining the integrity of the market-place and deterring wrongdoing in New York are swept aside. New York is not a modern-day Barbary Coast that countenances harmful and tortious conduct within its borders, and our choice-of-law rules should continue to take into account New York's interest in preserving a fair, honest and open market-place. Scotland has no license to export its tort immunity.

The Decision below also contributes to an unsettled legal landscape. It undermines this Court's decision in *Greenspun* and is contrary to case law in the Second Department and prior panels of the First Department. It is now being employed in state and federal courts, without apparent regard for *Greenspun*. Absent intervention by this Court, the approach adopted below will likely continue to take root in state and federal courts and undermine New York's longstanding interest in regulating commercial conduct. Such a watershed development warrants this Court's most serious attention.

ARGUMENT

THIS COURT SHOULD GRANT LEAVE TO APPEAL TO ADDRESS A CHOICE-OF-LAW ISSUE OF SUBSTANTIAL PUBLIC IMPORTANCE.

The Rules of this Court provide that, on motions for leave to appeal, this Court will give due consideration to whether the question presented merits review by this Court, such as where the "issues are [1] novel or of public importance, [2] present a conflict with prior decisions of this Court, or [3] involve a conflict among the departments of the Appellate Division." 22 NYCRR 500.22(b)(4). Under each of these factors, it would be appropriate for this Court to grant permission to appeal.

I. This Case Presents A Question Of Substantial Public Importance.

This Court is rightfully considered to be a beacon of the common law. The official reports of this Court and law school casebooks are replete with this Court's landmark opinions setting forth principled choice-of-law rules in cross-border cases touching upon foreign and domestic interests. Stewart E. Sterk, *The New York Court of Appeals: 150 Years of Leading Decisions*, 48 Syracuse L. Rev. 1391, 1438-1442 (1998) ("The Court of Appeals has played a critical role in the development of choice-of-law theory during the twentieth century.").

This Court has been in the forefront of State high courts in formulating flexible choice-of-law rules that "take into account essential policy considerations and objectives" in order to avoid "unjust and anomalous results." *Babcock v.*

Jackson, 12 N.Y.2d 473, 484 (1963). *See also* David D. Siegel, *Conflict of Laws*, 19 Syracuse L. Rev. 235, 248-49 (1967) ("The approach [in *Babcock*] requires the court to parse the issues of each case and to apply to each issue the law of the jurisdiction having the most significant contacts with that issue. . . . *Babcock* acknowledged the loss of predictability and deliberately deferred it to a rule better able to achieve justice"); Michael E. Solimine, *The Impact of Babcock v. Jackson: An Empirical Note*, 56 Alb. L. Rev. 773, 778-82 (1993) ("*Babcock* has had a significant impact on the conflict-of-laws revolution" given that 28 State high courts cited or discussed *Babcock* in rejecting *lex loci delicti*, and indeed, *Babcock* has had an impact on the law of what is today the European Union); Patrick J. Borchers, *The Return of Territorialism to New York's Conflicts Law: Padula v. Lilarn Properties Corp.*, 58 Alb. L. Rev. 775 (1995) ("*Babcock v. Jackson* . . . remains the most famous American conflicts decision").

Consistent with this jurisprudential tradition, "New York choice of law principles require a court to apply the law of the state with the most significant relationship with the particular issue in conflict." *Indosuez Int'l Fin. B.V. v. Nat'l Res. Bank*, 98 N.Y.2d 238, 245 (2002). This approach has deep roots in New York law. *See*, *e.g.*, *Intercontinental Planning, Ltd. v. Daystrom, Inc.*, 24 N.Y.2d 372, 382 (1969) (Jasen, J.) (New York favors "an approach which gives to the place having the most interest in the problem paramount control over the legal issues arising out

of a particular factual context, thus allowing the forum to apply the policy of the jurisdiction most intimately concerned with the outcome of [the] particular litigation") (internal quotation marks and citations omitted); *Pallavicini v. Int'l Tel. & Tel. Corp.*, 41 A.D.2d 66, 69 (1st Dep't 1973) (New York negotiations gave New York a substantial interest in applying its own law to commercial transaction), *aff'd mem.*, 34 N.Y.2d 913 (1974).

The State of New York "has a strong interest in regulating commercial transactions which take place largely within its boundaries." *Israel Disc. Bank, Ltd. v. Rosen*, 59 N.Y.2d 428, 432 n.1 (1983). "New York is a national and international center for the purchase and sale of businesses and interests therein" and it strives to "protect not only its own residents, but also those who come into New York and take advantage of [New York's] position as an international clearing house and market place." *Intercontinental Planning, Ltd.,* 24 N.Y.2d at 383-84. *Accord J. Zeevi & Sons, Ltd. v. Grindlays Bank, Ltd.*, 37 N.Y.2d 220, 227 (1975) ("New York has an overriding and paramount interest in the outcome of this [commercial] litigation. It is a financial capital of the world, serving as an international clearinghouse and market place for a plethora of international transactions"), *cert. denied*, 423 U.S. 866 (1975). "New York has an obvious and substantial leading interest in ensuring that it does not become either a base or a haven for law breakers to wreak injury nationwide." *In re Simon II Litig.*, 2002 U.S. Dist. LEXIS 25632, at *266 (E.D.N.Y.

Oct. 22, 2002). *See* Patricia Youngblood Reyhan, *Conflict of Laws*, 54 Syracuse L. Rev. 933, 951-53 (2004) (discussing Judge Weinstein's landmark opinion in *Simon II*).

Mindful of New York's paramount and abiding interest as a global financial and business center, the Courts of New York have adopted a narrow and flexible choice-of-law rule familiarly known as the so-called "internal affairs doctrine." "[T]he internal affairs doctrine . . . provides that relationships between a company and its directors and shareholders are *generally* governed by the substantive law of the jurisdiction of incorporation." *Davis v. Scottish Re Grp. Ltd.*, 30 N.Y.3d 247, 253 (2017) (emphasis added). By its terms, this is a *general* rule that allows the law of the jurisdiction of incorporation to be displaced by the demonstrated interests of New York. *See generally Greenspun*, 36 N.Y.2d at 477. "New York takes a much narrower view of the internal affairs doctrine than do some other jurisdictions." *Tyco Int'l, Ltd. v. Kozlowski*, 756 F. Supp. 2d 553, 560 (S.D.N.Y. 2010).

Most seriously, the Decision below overlooks and undermines New York's strong interest in regulating commercial transactions which take place within its boundaries. The practical effect of the Appellate Division's mechanical approach under the internal affairs doctrine is that Scots law -- the law of FanDuel's jurisdiction of incorporation -- is summarily given extraterritorial effect, without any stated recognition of New York's paramount interest in maintaining the integrity of

the market-place. Leave to appeal should be granted to allow a consideration of New York's interest. Given New York's status as a global commercial center, this case presents a legal question that has profound State-wide, national and international importance.

II. The Decision Below Conflicts With *Greenspun v. Lindley*, 36 N.Y.2d 473 (1975).

This Court's leading decision applying the internal affairs doctrine is *Greenspun v. Lindley*, 36 N.Y.2d 473 (1975). In *Greenspun*, shareholders of a real estate investment trust brought an action in New York challenging the investment decisions and management of the trust. The trust was organized in Massachusetts and its shareholders agreed to be bound by Massachusetts law. On this basis, and in the absence of any New York contacts, this Court found that "prima facie, Massachusetts law is applicable" to the business dispute. *Greenspun*, 36 N.Y.2d at 477.

Greenspun emphasized, however, that the state of organization/incorporation, standing alone, does not automatically compel application of that jurisdiction's law to a New York business dispute. *Greenspun* teaches that it is necessary to consider *all* significant contacts of New York including, for example, "proof of a significant association or cluster of significant contacts on the part of the [entity] with the State of New York to support a finding of such 'presence' of the [entity] in our State as

would, irrespective of other considerations, call for the application of New York law." *Greenspun*, 36 N.Y.2d at 477.

This Court squarely "reject[ed] any automatic application of the so-called 'internal affairs' choice-of-law rule, under which the relationship between shareholders and trustees of a business trust by strict analogy to the relationship between shareholders and directors of a business corporation would be governed by the law of the State in which the business entity was formed." *Id.* at 478. *Accord Norlin Corp. v. Rooney, Pace, Inc.*, 744 F.2d 255, 263 (2d Cir. 1984) ("the [*Greenspun*] court rejected 'any automatic application of the so-called 'internal affairs' choice-of-law rule'"); *Hau Yin To v. HSBC Holdings, PLC*, 700 F. App'x 66, 69 (2d Cir. 2017) ("New York courts reject a per se application of the internal affairs doctrine"); *Tyco Int'l, Ltd.*, 756 F. Supp.2d at 560 (New York does not make "'automatic reference'" to the state of incorporation's laws).

In the Decision below, however, the Appellate Division abandoned this Court's long-settled jurisprudence calling for a consideration of New York's interests. Instead, the Court below effectively adopted the same inflexible and formalistic rule squarely rejected by *Greenspun* and gave automatic and dispositive effect to its view of the law of the jurisdiction of FanDuel's incorporation. The Appellate Division's opinion did not cite to *Greenspun* nor consider New York's interests as required by *Greenspun*. Nor did the Appellate Division consider whether

FanDuel has a "presence" in New York that would displace the law of the jurisdiction of incorporation. This was reversible error and it warrants close attention.

To determine whether an entity is present in New York -- an objective and consequential indicator of New York's interest in the dispute -- this Court set forth a non-exclusive list of factors to be considered, including "[1] where the business of the [entity] is transacted, [2] where its principal office is located or its records kept, [3] where the trustees meet, [4] what percentage of the investment portfolio relates to real property situate in New York, [5] what proportion of the shareholders reside in New York State or . . . [6] other facts on which a finding of such 'presence' in New York State might be predicated." *Greenspun*, 36 N.Y.2d at 477.

The Decision below did not consider these factors. This was not harmless error. The facts alleged in the Complaint (which are presumed to be true on a motion to dismiss), show that all, or virtually all, of the *Greenspun* factors point to significant New York interests that, properly considered, may well support application of New York law in this case.

1. *The Location Where Business Of The Entity Is Transacted*: "[A] substantial part of the events giving rise to the claims occurred in New York County. Defendants negotiated, executed, and celebrated the Paddy Power Betfair merger in New York." R. 460-61 at ¶ 26.

"Most of FanDuel's staff and executive team were located in New York." R. 461 at ¶ 27.

2. *The Location Of The Entity's Principal Office*: "FanDuel['s] . . . headquarters have been in New York since 2011." R. 461 at ¶ 27. "FanDuel Group, Inc. and FanDuel Inc. ("FanDuel Group") are Delaware corporations headquartered in New York, New York." R. 467 at ¶ 47. *See also* R. 468 at ¶ 49; R. 455 at ¶ 1; R. 470 at ¶ 59. "Fastball Holdings LLC, Fastball Parent 1 Inc., and Fastball Parent 2 Inc. (collectively "Fastball Holdings") is a Delaware limited liability company formed on May 23, 2018, with a principal place of business in New York, New York." R. 468 at ¶ 48.
3. *The Location Of Board Meetings*: "Board meetings were held in New York throughout 2017 and 2018, and teleconference board meetings, of which there were approximately eight a year, typically included at least one New York participant. New York was where the officers and directors of FanDuel directed, coordinated, and controlled the Company's activities." R. 461 at ¶ 27.
4. *Percentage Of The Business Activity In New York*: "FanDuel's business also had a strong nexus to New York. Approximately 97% of FanDuel's revenue was derived from the United States, with New

York customers accounting for 10-15% of the Company's total revenue. Indeed, by 2015, FanDuel had over 250,000 New York customers." R. 461 at ¶ 28.

5. *Proportion Of The Shareholders Residing in New York*: A substantial number of Plaintiffs-Shareholders are residents of New York. Lead Plaintiff resides in New York as do many other Plaintiffs-Shareholders. *See* R. 461-62 at ¶¶ 29, 30, 34.
6. *Other Facts On Which A Finding Of "Presence" in New York Might Be Predicated*: "FanDuel has acknowledged its strong nexus to New York by designating New York law as controlling its terms of service." R. 461 at ¶ 28. "And, on information and belief, nearly all discussions by and among Defendants on the exercise of KKR and Shamrock's drag along right (discussed below), the value of the FanDuel shareholders' 40% interest in the new merged company, and the distribution of that interest under FanDuel's Articles of Association, occurred either in New York or on phone calls with New York participants." R. 461-62 at ¶ 26.

This brief survey of the salient factual allegations shows that there was an ample basis for the Appellate Division to find a "presence" on the part of FanDuel and other entities in New York, under the very factors identified in *Greenspun*. The

above-described contacts, viewed quantitatively or qualitatively, may well support application of New York law to the instant business dispute arising within the borders of New York. And these meaningful New York contacts may well have supplanted the interest (if any) in applying Scots law. By failing to consider New York's interests as required by *Greenspun*, the Decision below conflicts with *Greenspun*, and this warrants review and reversal by this Court.[2]

III. The Decision Below Conflicts With The Law Of The Second Department.

The Decision below also presents a conflict among the Departments of the Appellate Division. For example, the Appellate Division did not consider that New York has significant interests that may be protected by application of New York law. In contrast, the Second Department considers New York contacts and interests under *Greenspun*. *Rottenberg v. Pfeiffer*, 86 Misc. 2d 556, 558 (Sup. Ct. Nassau Co. 1976) (Gibbons, J.) ("In *Greenspun*, the Court of Appeals specifically left open the

[2] Where the law requires a consideration of specific factors, and the lower court fails to consider such relevant factors, the lower court has committed reversible error as a matter of law. *Varkonyi v. S. A. Empresa de Viacao Airea Rio Grandense*, 22 N.Y.2d 333, 337 (1968) ("Where [the appellate] court, in exercising its discretion, fails to take into account all the various factors entitled to consideration [in addressing *forum non conveniens*], it commits error of law reviewable by this court."), *rearg. denied*, 22 N.Y.2d 973 (1968); *White Light Prods. v. On the Scene Prods.*, 231 A.D.2d 90, 100 (1st Dep't 1997) ("the court engaged in a mechanistic application of the first-in-time rule, without reviewing and evaluating all the pertinent competing considerations as appropriate in a case implicating *forum non conveniens* criteria") (internal quotation marks and citations omitted).

question as to what law might be applicable if a Massachusetts business trust were to be found to be 'present' in this State"), *aff'd*, 59 A.D.2d 756 (2d Dep't 1977) (considering New York contacts under *Greenspun*).

IV. The Decision Below Conflicts With The Decisions Of Prior Panels Of The First Department.

The Decision below also conflicts with the decisions of other panels of the First Department. The First Department's Decision below conflicts with that Court's prior decisional law which recognized that, while the jurisdiction of incorporation may be a "prima facie" indication of the law to be applied under the internal affairs doctrine as explicated by *Greenspun*, it is appropriate to consider the existence of New York contacts. *Hart v. Gen. Motors Corp.*, 129 A.D.2d 179, 185 & n.3 (1st Dep't 1987), *lv. denied*, 70 N.Y.2d 608 (1987); *Petrobras Comercio Internacional, S.A. v. Intershoe, Inc.*, 77 A.D.2d 546, 547 (1st Dep't 1980) (applying *Greenspun* and holding "[a]lthough the record discloses that contacts with Brazil are substantial, it also demonstrates that there are substantial contacts with this State. A determination of the applicable law must, therefore, await complete development of the facts.").

V. Intervention By This Court Is Imperative.

The Appellate Division's Decision has already begun to eclipse *Greenspun*. The Decision below has been applied to business disputes in state and federal courts, which now appear to hold that the internal affairs rule automatically calls for the

application of the law of the state of incorporation. *See Shutvet v. Massa*, 2023 NY Slip Op 30443(U), ¶ 12, 2023 N.Y. Misc. LEXIS 608 *19 (Sup. Ct. N.Y. Co. 2023), (applying *Eccles* and holding that "[t]he law of the state of incorporation governs whether or not the business judgment rule has been satisfied."); *Miracle Ventures I, LP v. Spear*, 2022 U.S. Dist. LEXIS 199079, at *12 (S.D.N.Y. Nov. 1, 2022) (applying *Eccles* and holding that "[b]ecause FIGS is a Delaware corporation, Delaware law governs this claim").

A grant of leave to appeal in this case would put the Bench and Bar on notice that the approach adopted below is not the final word on the matter and will be the subject of careful consideration by this Court. Absent such intervention, there is real risk that the precedent set by the First Department will have a ripple effect throughout the courts of New York. *Maple Med., LLP v. Scott*, 191 A.D.3d 81, 90 (2d Dep't 2020) ("The Appellate Division is a single state-wide court divided into departments for administrative convenience [and] [w]hile the Supreme Court is bound to apply the law as promulgated by the Appellate Division in its own department, where the issue has not been addressed within that department, the Supreme Court is obligated to follow the precedent set by the Appellate Division of another department until its home department or the Court of Appeals pronounces a contrary rule.") (citations omitted). Under these circumstances, "choice of law in [New York] is at the crossroads" (Patrick J. Borchers, *The Choice-Of-Law*

Revolution: An Empirical Study, 49 Wash. & Lee L. Rev. 357, 384 (1992)) and only this Court can provide the authoritative guideposts.

CONCLUSION

The motion of *amici* for permission to file this proposed brief should be granted, and this Court should grant leave to appeal. *Amici* would not presume to offer their views on the merits of the underlying and contested allegations, which naturally must await complete development of the facts. Nor would *amici* presume, at this early stage, to prejudge the outcome of the requisite, yet-to-occur, consideration of New York interests. But *amici* are convinced that, given this Court's historic, national leadership in formulating principled choice-of-law rules, leave to appeal should be granted to allow this Court to authoritatively address a once-in-a-generation choice-of-law issue of State-wide, national and global significance.

Dated: March 31, 2023

Respectfully Submitted,

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APPENDIX

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[3] The listing of school and title is for identification purposes only.

Statement Pursuant to Rule 500.23(a)(4)(iii)(a)-(c) of the Rules of Practice

No party's counsel contributed content to the brief or participated in the preparation of the brief in any other manner. No party or a party's counsel contributed money that was intended to fund preparation or submission of the brief. No person or entity, other than movants or movants' counsel, contributed money that was intended to fund preparation or submission of the brief. Counsel of record is representing *amici curiae* on a *pro bono publico* basis on this motion.

Dated: March 31, 2023

JOHN J. HALLORAN, JR., P.C.

By:

Printing Specifications Statement
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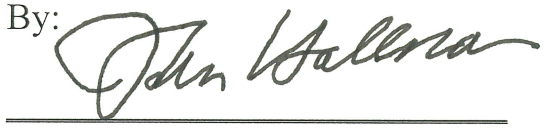
Word Count. The total number of words in this proposed *Amicus Curiae* Brief, inclusive of point headings and footnotes and exclusive of pages containing the table of contents, table of authorities, the required disclosure statements, proof of service and this Statement is 4,087.

Dated: March 31, 2023

JOHN J. HALLORAN, JR., P.C.

By: 

STATE OF NEW YORK)		**AFFIDAVIT OF SERVICE**
)	ss.:	**BY OVERNIGHT FEDERAL**
COUNTY OF NEW YORK)		**EXPRESS NEXT DAY AIR**

I, Tyrone Heath, 2179 Washington Avenue, Apt. 19, Bronx, New York 10457, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at the address shown above or at

On April 3, 2023

deponent served the within: **BRIEF FOR AMICI CURIAE CONFLICT OF LAWS PROFESSORS PATRICK J. BORCHERS, CHRISTINE SGARLATA CHUNG, KEVIN McELROY, PATRICIA YOUNGBLOOD REYHAN, MICHELLE S. SIMON, STEWART E. STERK, AND AARON D. TWERSKI IN SUPPORT OF PLAINTIFFS-APPELLANTS' MOTION FOR PERMISSION TO APPEAL TO THE COURT OF APPEALS**

upon:

SEE ATTACHED SERVICE LIST

the address(es) designated by said attorney(s) for that purpose by depositing **3** true copy(ies) of same, enclosed in a properly addressed wrapper in an Overnight Next Day Air Federal Express Official Depository, under the exclusive custody and care of Federal Express, within the State of New York.

Sworn to before me on April 3, 2023

Mariana Braylovskiy

MARIANA BRAYLOVSKIY
Notary Public State of New York
No. 01BR6004935
Qualified in Richmond County
Commission Expires March 30, 2026

T. Heath

Job# 320171

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